

**CHICKASAW NATION LAW ENFORCEMENT COMMISSION
AGREEMENT**

FILED

DEC 16 2022

PREAMBLE

OKLAHOMA SECRETARY
OF STATE

WHEREAS, the Chickasaw Nation possesses a reservation recognized as “Indian Country” for purposes of criminal law enforcement, as that term is defined at 18 U.S.C. § 1151 (“Chickasaw Nation Indian Country”). See *Proclamation from the Office of the Governor of the Chickasaw Nation* (Mar. 11, 2021); *Bosse v. Oklahoma*, PCD-2019-124 (Okla. Ct. Crim. App., Mar. 11, 2021); cf. *McGirt v. Oklahoma*, No. 18-9526 (U.S.S. Ct., Jul. 9, 2020).

WHEREAS, the BNSF Railway Police (“BNSF”) is the law enforcement division of the BNSF Railway Company, as authorized by Federal and State law, and exercises criminal law enforcement authority within its jurisdiction pursuant to 49 U.S. Code § 28101 and Okla. Stat. Ann. tit. 66, § 183 within Chickasaw Nation Indian Country;

WHEREAS, in forming and entering this Agreement, our intent is to coordinate and provide mutual support for purposes of effective law enforcement throughout Chickasaw Nation Indian Country in the interest of the general public’s safety;

WHEREAS, Oklahoma has enacted 21 O.S. § 99a(D), vesting Tribal officers with *Oklahoma Peace Officer* status by providing “a tribal law enforcement officer of a federally recognized Indian tribe who has been commissioned by the Federal Bureau of Indian Affairs and has been certified by the Council on Law Enforcement Education and Training shall have state police powers to enforce state laws . . . in Indian Country.”

WHEREAS, the Chickasaw Nation is party to the 2005 master cross-deputation agreement (“2005 Master Cross-Deputation Agreement”), establishing processes for Tribal, State, and Local officers to obtain U.S. Bureau of Indian Affairs *Special Law Enforcement Commissions* for purposes of enforcing Federal law within Chickasaw Nation Indian Country and which 2005 Master Cross-Deputation Agreement additionally recognizes Chickasaw Nation’s authority to authorize non-Chickasaw law enforcement officers to enforce Tribal law within Chickasaw Nation Indian Country;

WHEREAS, Chickasaw Nation Tribal Legislature General Res. Nos. 22-007 (Nov. 20, 2004) and 23-064 (May 19, 2006) support Chickasaw Nation’s entry into agreements with non-Chickasaw law enforcement agencies as “necessary to carry out the enforcement of tribal or other potentially applicable laws in the Indian Country of the Chickasaw Nation”;

WHEREAS, Chickasaw Nation Executive Ord. No. 21-01 (Mar. 11, 2021) directs Chickasaw Nation Lighthouse to “update its policies and procedures relating to the cross-

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commissioning of non-Tribal police as Chickasaw Lighthouse Police officers,” with support from Chickasaw Nation Department of Governmental Affairs and Partnership and legal counsel;

WHEREAS, issuing *Chickasaw Nation law enforcement commissions* to non-Chickasaw law enforcement officers acting within Chickasaw Nation Indian Country serves the shared governmental interest of the parties hereto to provide effective law enforcement throughout Chickasaw Nation Indian Country in the interest of the general public’s safety.

NOW, IN CONSIDERATION THEREOF, Chickasaw Nation and BNSF agree as follows:

TERMS OF AGREEMENT

1. After entry to this Agreement, BNSF shall provide Chickasaw Nation a list of its full-time officers presently certified by the Council on Law Enforcement Education and Training (“CLEET”) and authorized to enforce Oklahoma law.
2. In addition to any commissions already established and implemented consistent with the 2005 Master Cross-Deputation Agreement and earlier Chickasaw Nation authorizations, all of BNSF’s full-time and CLEET-certified officers who are authorized to enforce Oklahoma law, shall have a *Chickasaw Nation Law Enforcement Commissions*, which commission empowers each officer so commissioned to enforce Chickasaw Nation law within Chickasaw Nation Indian Country as a Chickasaw Nation Lighthouse officer; *provided*, each officer so commissioned shall—
 - a. participate in trainings on Chickasaw Nation law and process, as prescribed by Chickasaw Nation Lighthouse and conducted in coordination with BNSF;
 - b. be bound by Chickasaw Nation Lighthouse standards and procedures with respect to the performance of Chickasaw Nation law enforcement functions;
 - c. cooperate and coordinate with Chickasaw Nation Lighthouse and assigned prosecutors with respect to actions taken within the scope of the commission; and
 - d. remain commissioned for so long as—
 - i. the officer remains in BNSF’s full-time employment and in good standing with his or her CLEET certification; or
 - ii. the Chickasaw Nation suspends or terminates the officer’s commission by written notice to the BNSF and officer.
3. To facilitate implementation of this Agreement, BNSF shall annually provide to Chickasaw Nation an update to the list required by ¶1 and a report showing each officer’s

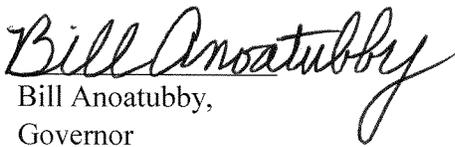
completion of his or her annual training requirements and good standing with BNSF. Upon BNSF's request, Chickasaw Nation shall cause commission cards annually to issue to qualifying officers; *provided*, possession of a commission card shall not be necessary to legally effectuate any commission.

4. This Agreement ratifies and documents that all BNSF's officers who satisfy the requirements of ¶2, above, are duly commissioned for purposes of enforcement of Chickasaw Nation law within Chickasaw Nation Indian Country in accord with this agreement, and Chickasaw Nation shall cause this agreement to be published for purposes of public notice.
5. This Agreement relates to the performance of Tribal self-governance functions (25 U.S.C. § 450, et seq.), and the Federal Tort Claims Act ("FTCA") should address liability for claims arising from acts taken in the enforcement of Chickasaw Nation law within Chickasaw Nation Indian Country. Additionally, Chickasaw Nation maintains insurance to address liability for claims arising from acts taken in the enforcement of Chickasaw Nation law within Chickasaw Nation Indian Country and shall cause BNSF and BNSF's commissioned officers to be named as additional insureds on such additional coverage for such purposes; *provided*, such additional coverage shall not be available for claims arising from acts taken by an officer commissioned in accord with this Agreement if the claim has been adjudicated as covered by the FTCA.
6. BNSF and Chickasaw Nation Lighthouse will coordinate and cooperate in good faith with respect to implementing this Agreement, meeting regularly for such purposes, and BNSF will work with Chickasaw Nation Office of Governmental Affairs and Partnerships with respect to any dispute that may arise hereunder or to any amendment or revision proposed hereto. Each party shall ensure the other has current contact information for all persons appropriate for handling matters relating to or otherwise for purposes of implementing this Agreement.
7. Nothing contained in this Agreement purports to authorize BNSF's officers to act outside the scope of railway officer jurisdiction as determined by Federal and State law; rather, this Agreement merely authorizes BNSF officers to, one, enforce Chickasaw Nation law on or within BNSF property and, two, upon the request of Chickasaw Nation Lighthouse, assist other law enforcement agencies in the enforcement of Chickasaw Nation law elsewhere within Chickasaw Nation Indian Country, unless such assistance is prohibited by Federal law.
8. As they may deem appropriate, the parties may amend or revise this Agreement in a writing approved and executed by both.

9. This Agreement shall remain in force and effect, as it may from time to time be amended or revised, until it is terminated by either or both parties on one hundred eighty (180) days' written notice; *provided*, no termination shall be effective for any purpose until the completion of the notice period, nor shall such termination have any effect on actions taken during the period in which the Agreement was in force and effect.
10. Nothing herein, including acts taken in accord with ¶¶5&6, waives nor shall it be deemed to have waived the sovereign immunity of the Chickasaw Nation for any purpose.

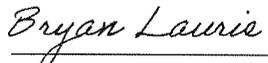
APPROVED

For CHICKASAW NATION


Bill Anoatubby,
Governor

Date: DEC 15 2022

For BNSF Railway Company


Bryan Laurie,
Chief of Police

Date: 12/14/22